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SENATE BILL 503

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO GROUP INSURANCE PLANS; PROVIDING THAT LEGISLATORS,
UNDER CERTAIN CONDITIONS, ARE ELIGIBLE FOR BENEFITS PURSUANT TO
THE GROUP BENEFITS ACT; PROVIDING THAT RETIRED LEGISLATORS,
UNDER CERTAIN CONDITIONS, ARE ELIGIBLE FOR BENEFITS PURSUANT TO
THE RETIREE HEALTH CARE ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7-4 NMSA 1978 (being Laws 1941,
Chapter 188, Section 1, as amended) is amended to read:

"10-7-4. GROUP INSURANCE--CAFETERIA PLAN--CONTRIBUTIONS
FROM PUBLIC FUNDS.--

A. All state departments and institutions and all
political subdivisions of the state, excluding municipalities,
counties and political subdivisions of the state with twenty-
five employees or fewer, shall cooperate in providing group

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1 term life, medical or disability income insurance for the
2 benefit of eligible employees or salaried officers of the
3 respective departments, institutions and subdivisions.

4 B. The group insurance contributions of the state
5 or any of its departments or institutions, including
6 institutions of higher education and the public schools, shall
7 be made as follows:

8 (1) seventy-five percent of the cost of the
9 insurance of an employee whose annual salary is less than
10 fifteen thousand dollars (\$15,000);

11 (2) seventy percent of the cost of the
12 insurance of an employee whose annual salary is fifteen
13 thousand dollars (\$15,000) or more but less than twenty
14 thousand dollars (\$20,000);

15 (3) sixty-five percent of the cost of the
16 insurance of an employee whose annual salary is twenty thousand
17 dollars (\$20,000) or more but less than twenty-five thousand
18 dollars (\$25,000); or

19 (4) sixty percent of the cost of the insurance
20 of a legislator or an employee whose annual salary is twenty-
21 five thousand dollars (\$25,000) or more.

22 As used in this subsection, "cost of the insurance" means
23 the premium required to be paid to provide coverages. Any
24 contributions of the political subdivisions of the state,
25 except the public schools and political subdivisions of the

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1 state with twenty-five employees or fewer, shall not exceed
2 sixty percent of the cost of the insurance.

3 C. When a public employee elects to participate in
4 a cafeteria plan as authorized by the Cafeteria Plan Act and
5 enters into a salary reduction agreement with the governmental
6 employer, the provision of Subsection B of this section with
7 respect to the maximum contributions that can be made by the
8 employer are not violated and will still apply. The employer
9 percentage or dollar contributions as provided in Subsection B
10 of this section shall be determined by the employee's gross
11 salary prior to any salary reduction agreement.

12 D. Any group medical insurance plan offered
13 pursuant to this section shall include effective cost-
14 containment measures to control the growth of health care
15 costs. The responsible public body that administers a plan
16 offered pursuant to this section shall report annually by
17 September 1 to appropriate interim legislative committees on
18 the effectiveness of the cost-containment measures required by
19 this subsection. "

20 Section 2. Section 10-7B-2 NMSA 1978 (being Laws 1989,
21 Chapter 231, Section 2) is amended to read:

22 "10-7B-2. DEFINITIONS. -- As used in the Group Benefits
23 Act:

- 24 A. "committee" means the group benefits committee;
25 B. "director" means the director of the risk

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1 management division of the general services department;

2 C. "employee" means ~~[any]~~ a salaried officer, ~~[or]~~
3 employee or legislator of the state or a salaried officer or
4 employee of a local public body ~~[or both, as the context~~
5 ~~requires]~~;

6 D. "local public body" means any New Mexico
7 incorporated municipality, county or school district;

8 E. "professional claims administrator" means any
9 person or legal entity ~~[which]~~ that has at least five years of
10 experience handling group benefits claims, as well as such
11 other qualifications as the director may determine from time to
12 time with the committee's advice; and

13 F. "state" or "state agency" means the state of New
14 Mexico or any of its branches, agencies, departments, boards,
15 instrumentalities or institutions."

16 Section 3. Section 10-7B-6 NMSA 1978 (being Laws 1989,
17 Chapter 231, Section 6) is amended to read:

18 "10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE
19 PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION.--

20 A. The risk management division of the general
21 services department may, with the prior advice of the
22 committee, establish and administer a group benefits self-
23 insurance plan, providing life, vision, health, dental and
24 disability coverages, or any combination of such coverages, for
25 employees of the state and of participating local public

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1 bodies. Any such group benefits self-insurance plan shall
2 afford coverage for employees' dependents at each employee's
3 option. Any such group benefits self-insurance plan may
4 consist of self-insurance or a combination of self-insurance
5 and insurance; provided that particular coverages or risks may
6 be fully insured, fully self-insured or partially insured and
7 partially self-insured.

8 B. The director, with the advice of the committee,
9 shall establish by regulation or letter of administration the
10 types, extent, nature and description of coverages, the
11 eligibility rules for participation, the deductibles, rates and
12 all other matters reasonably necessary to carry on or
13 administer a group benefits self-insurance plan established
14 pursuant to Subsection A of this section.

15 C. The contribution of each participating state
16 agency to the cost of any such group benefits self-insurance
17 plan shall not exceed that percentage provided for state group
18 benefits insurance plans as provided by law. The contribution
19 of a participating local public body to the cost of any such
20 group benefits self-insurance plan shall not exceed that
21 percentage provided for local public body group benefits
22 insurance plans as provided by law.

23 D. Except as provided in Subsection E of this
24 section, public employees' contributions to the cost of any
25 group benefits self-insurance plan may be deducted from their

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1 salaries and paid directly to the group self-insurance fund;
2 provided that where risks are insured or reinsured, the
3 director may authorize payment of the costs of such insurance
4 or reinsurance directly to the insurer or reinsurer.

5 E. A legislator and the legislator's covered
6 dependents are eligible to participate in and receive benefits
7 from the group benefits self-insurance plan if the legislator
8 pays monthly premiums in amounts that equal forty percent of
9 the cost of the insurance. The premiums shall be paid directly
10 to the group self-insurance fund; provided that where risks are
11 insured or reinsured, the director may authorize payment of the
12 premiums directly to the insurer or reinsurer.

13 [~~E.~~] F. Local public bodies and state agencies
14 [~~which~~] that are not participating in the state group benefits
15 insurance plan or self-insurance plan may elect to participate
16 in any group benefits self-insurance plan established pursuant
17 to Subsection A of this section by giving written notice to the
18 director on a date set by the director, which date shall not be
19 later than ninety days prior to the date participation is to
20 begin. The director shall determine an initial rate for [~~such~~]
21 the electing entity in accordance with a letter of
22 administration setting forth written guidelines established by
23 the director with the committee's advice. The initial rate
24 shall be based on the claims experience of [~~such~~] the electing
25 entity's group for the three immediately preceding continuous

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1 years. If three years of continuous experience is not
2 available, a rate fixed for the entity by the director with the
3 committee's advice shall apply, and the electing entity's group
4 shall be rerated on the first premium anniversary following the
5 date one full year of experience for [~~such~~] the group becomes
6 available. Any such election may be terminated effective not
7 earlier than June 30 of the third calendar year succeeding the
8 year in which the election became effective or on any June 30
9 thereafter. Notice of termination shall be made in writing to
10 the director not later than April 1 immediately preceding the
11 June 30 on which participation will terminate. A reelection to
12 participate in the plan following a termination may not be made
13 effective for at least three full years following the effective
14 date of termination.

15 [F.] G. As soon as practicable, the director with
16 the committee's advice shall establish an experience rating
17 plan for state agencies and local public bodies participating
18 in any group benefits self-insurance plan created pursuant to
19 Subsection A of this section. Rates applicable to state
20 agencies and participating local public bodies shall be based
21 on such experience rating plan. Any such experience rating
22 plan may provide separate rates for individual state agencies
23 and individual local public bodies or for such other experience
24 centers as the director may determine."

25 Section 4. Section 10-7C-4 NMSA 1978 (being Laws 1990,

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1 Chapter 6, Section 4, as amended) is amended to read:

2 "10-7C-4. DEFINITIONS. -- As used in the Retiree Health
3 Care Act:

4 A. "active employee" means an employee of a public
5 institution or any other public employer participating in
6 either the Educational Retirement Act, the Public Employees
7 Retirement Act, the Judicial Retirement Act, the Magistrate
8 Retirement Act or the Public Employees Retirement Reciprocity
9 Act or an employee of an independent public employer;

10 B. "authority" means the retiree health care
11 authority created pursuant to the Retiree Health Care Act;

12 C. "basic plan of benefits" means only those
13 coverages generally associated with a medical plan of benefits;

14 D. "board" means the board of the retiree health
15 care authority;

16 E. "current retiree" means an eligible retiree who
17 is receiving a disability or normal retirement benefit under
18 the Educational Retirement Act, the Public Employees Retirement
19 Act, the Judicial Retirement Act, the Magistrate Retirement
20 Act, the Public Employees Retirement Reciprocity Act or the
21 retirement program of an independent public employer on or
22 before July 1, 1990;

23 F. "eligible dependent" means a person obtaining
24 retiree health care coverage based upon that person's
25 relationship to an eligible retiree as follows:

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- (1) a spouse;
- (2) an unmarried child under the age of nineteen who is:
 - (a) a natural child;
 - (b) a legally adopted child;
 - (c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;
 - (d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or
 - (e) a foster child living in the same household;
- (3) a child described in Subparagraphs (a) through (e) of Paragraph (2) of this subsection who is between the ages of nineteen and twenty-five and is a full-time student at an accredited educational institution; provided that "full-time student" shall be a student enrolled in and taking twelve or more semester hours or its equivalent contact hours in primary, secondary, undergraduate or vocational school or a student enrolled in and taking nine or more semester hours or its equivalent contact hours in graduate school;
- (4) a dependent child over nineteen who is

1 wholly dependent on the eligible retiree for maintenance and
2 support and who is incapable of self-sustaining employment by
3 reason of mental retardation or physical handicap; provided
4 that proof of incapacity and dependency shall be provided
5 within thirty-one days after the child reaches the limiting age
6 and at such times thereafter as may be required by the board;

7 (5) a surviving spouse defined as follows:

8 (a) "surviving spouse" means the spouse
9 to whom a retiree was married at the time of death; or

10 (b) "surviving spouse" means the spouse
11 to whom a deceased vested active employee was married at the
12 time of death; or

13 (6) a surviving dependent child who is the
14 dependent child of a deceased eligible retiree whose other
15 parent is also deceased;

16 G. "eligible employer" means either:

17 (1) a "retirement system employer", which
18 means an institution of higher education, a school district or
19 other entity participating in the public school insurance
20 authority, a state agency, state court, magistrate court,
21 municipality, county or public entity, each of which is
22 affiliated under or covered by the Educational Retirement Act,
23 the Public Employees Retirement Act, the Judicial Retirement
24 Act, the Magistrate Retirement Act or the Public Employees
25 Retirement Reciprocity Act; or

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1 (2) an "independent public employer", which
2 means a municipality, county or public entity that is not a
3 retirement system employer;

4 H. "eligible retiree" means:

5 (1) a "nonsalaried eligible participating
6 entity governing authority member" who is a person who is not a
7 retiree and who:

8 (a) has served without salary as a
9 member of the governing authority of an employer eligible to
10 participate in the benefits of the Retiree Health Care Act and
11 is certified to be such by the executive director of the public
12 school insurance authority;

13 (b) has maintained group health
14 insurance coverage through that member's governing authority if
15 such group health insurance coverage was available and offered
16 to the member during the member's service as a member of the
17 governing authority; and

18 (c) was participating in the group
19 health insurance program under the Retiree Health Care Act
20 prior to July 1, 1993; or

21 (d) ~~[if a person eligible under~~
22 ~~Subparagraph (a) of this paragraph applies before August 1,~~
23 ~~1993 to the authority to participate in the program, then he~~
24 ~~will be eligible to participate]~~ notwithstanding the provisions
25 of Subparagraphs (b) and (c) of this paragraph, is eligible

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1 under Subparagraph (a) of this paragraph and has applied before
2 August 1, 1993 to the authority to participate in the program;

3 (2) a "salaried eligible participating entity
4 governing authority member" who is a person who is not a
5 retiree and who:

6 (a) has served with salary as a member
7 of the governing authority of an employer eligible to
8 participate in the benefits of the Retiree Health Care Act;

9 (b) has maintained group health
10 insurance through that member's governing authority, if such
11 group health insurance was available and offered to the member
12 during the member's service as a member of the governing
13 authority; and

14 (c) was participating in the group
15 health insurance program under the Retiree Health Care Act
16 prior to July 1, 1993; or

17 (d) [~~if a person eligible under~~
18 ~~Subparagraph (a) of this paragraph applies before August 1,~~
19 ~~1993 to the authority to participate in the program, then he~~
20 ~~will be eligible to participate]~~ notwithstanding the provisions
21 of Subparagraphs (b) and (c) of this paragraph, is eligible
22 under Subparagraph (a) of this paragraph and has applied before
23 August 1, 1993 to the authority to participate in the program;
24 or

25 (3) an "eligible participating retiree" who is

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1 a person who:

2 (a) falls within the definition of a
3 retiree, has made contributions to the fund for at least five
4 years prior to retirement and whose eligible employer during
5 that period of time made contributions as a participant in the
6 Retiree Health Care Act on the person's behalf, unless that
7 person retires on or before July 1, 1995, in which event the
8 time period required for employee and employer contributions
9 shall become the period of time between July 1, 1990 and the
10 date of retirement, and who is certified to be a retiree by the
11 educational retirement director, the executive secretary of the
12 public employees retirement board or the governing authority of
13 an independent public employer;

14 (b) falls within the definition of a
15 retiree, retired prior to July 1, 1990 and is certified to be a
16 retiree by the educational retirement director, the executive
17 secretary of the public employees retirement association or the
18 governing authority [or] of an independent public employer; but
19 this paragraph does not include a retiree who was an employee
20 of an eligible employer who exercised the option not to be a
21 participating employer pursuant to the Retiree Health Care Act
22 and did not after January 1, 1993 elect to become a
23 participating employer; unless the retiree: 1) retired on or
24 before June 30, 1990; and 2) at the time of retirement did not
25 have a retirement health plan or retirement health insurance

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1 coverage available from his employer; ~~[or]~~

2 (c) is a retiree who: 1) was at the
3 time of retirement an employee of an eligible employer who
4 exercised the option not to be a participating employer
5 pursuant to the Retiree Health Care Act, but which eligible
6 employer subsequently elected after January 1, 1993 to become a
7 participating employer; 2) has made contributions to the fund
8 for at least five years prior to retirement and whose eligible
9 employer during that period of time made contributions as a
10 participant in the Retiree Health Care Act on the person's
11 behalf, unless that person retires less than five years after
12 the date participation begins, in which event the time period
13 required for employee and employer contributions shall become
14 the period of time between the date participation begins and
15 the date of retirement; and 3) is certified to be a retiree by
16 the educational retirement director, the executive ~~[secretary]~~

17 director of the public employees retirement board or the
18 governing authority of an independent public employer; or
19 (d) falls within the definition of a
20 retiree and is certified by the executive director of the
21 public employees retirement board to be retired pursuant to the
22 Public Employees Retirement Act under a state legislator member
23 coverage plan;

24 I. "fund" means the retiree health care fund;

25 J. "group health insurance" means coverage that

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1 includes but is not limited to life insurance, accidental death
2 and dismemberment, hospital care and benefits, surgical care
3 and treatment, medical care and treatment, dental care, eye
4 care, obstetrical benefits, prescribed drugs, medicines and
5 prosthetic devices, medicare supplement, medicare carveout,
6 medicare coordination and other benefits, supplies and services
7 through the vehicles of indemnity coverages, health maintenance
8 organizations, preferred provider organizations and other
9 health care delivery systems as provided by the Retiree Health
10 Care Act and other coverages considered by the board to be
11 advisable;

12 K. "ineligible dependents" include but are not
13 limited to:

14 (1) those dependents created by common law
15 relationships;

16 (2) dependents while in active military
17 service;

18 (3) parents, aunts, uncles, brothers, sisters,
19 grandchildren and other family members left in the care of an
20 eligible retiree without evidence of legal guardianship; and

21 (4) anyone not specifically referred to as an
22 eligible dependent pursuant to the rules and regulations
23 adopted by the board;

24 L. "participating employee" means an employee of a
25 participating employer, which employee has not been [excluded]

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1 expelled from participation in the Retiree Health Care Act
2 pursuant to Section 10-7C-10 NMSA 1978;

3 M "participating employer" means an eligible
4 employer who has satisfied the conditions for participating in
5 the benefits of the Retiree Health Care Act, including the
6 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
7 Subsection D or E [~~or G~~] of Section 10-7C-9 NMSA 1978, as
8 applicable;

9 N. "public entity" means a flood control authority,
10 economic development district, council of governments, regional
11 housing authority, conservancy district or other special
12 district or special purpose government; and

13 O. "retiree" means a person who:

14 (1) is receiving:

15 (a) a disability or normal retirement
16 benefit or survivor's benefit [~~under~~] pursuant to the
17 Educational Retirement Act;

18 (b) a disability or normal retirement
19 benefit or survivor's benefit pursuant to the Public Employees
20 Retirement Act, the Judicial Retirement Act, the Magistrate
21 Retirement Act or the Public Employees Retirement Reciprocity
22 Act; or

23 (c) a disability or normal retirement
24 benefit or survivor's benefit pursuant to the retirement
25 program of an independent public employer to which that

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1 employer has made periodic contributions; or

2 (2) is not receiving a survivor's benefit but
3 is the eligible dependent of a person who received a disability
4 or normal retirement benefit pursuant to the Educational
5 Retirement Act, the Public Employees Retirement Act, the
6 Judicial Retirement Act, the Magistrate Retirement Act or the
7 Public Employees Retirement Reciprocity Act. "

8 Section 5. Section 10-7C-13 NMSA 1978 (being Laws 1990,
9 Chapter 6, Section 13, as amended) is amended to read:

10 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE
11 PLANS. --

12 A. [~~Each~~] Except as provided in Subsection B of
13 this section, an eligible retiree shall pay a monthly premium
14 for the basic plan in an amount set by the board not to exceed
15 fifty dollars (\$50.00) plus the amount, if any, of the
16 compounded annual increases authorized by the board, which
17 increases shall not exceed nine percent until fiscal year 2008
18 after which the increases shall not exceed the authority's
19 group health care trend. In addition to the monthly premium
20 for the basic plan, [~~each~~] a current retiree [~~and~~] or
21 nonsalaried eligible participating entity governing authority
22 member who becomes an eligible retiree shall also pay monthly
23 an additional participation fee set by the board. That fee
24 shall be five dollars (\$5.00) plus the amount, if any, of the
25 compounded annual increases authorized by the board, which

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1 increases shall not exceed nine percent until fiscal year 2008
2 after which the increases shall not exceed the authority's
3 group health care trend. The additional monthly participation
4 fee paid by the current retirees and nonsalaried eligible
5 participating entity governing authority members who become
6 eligible retirees shall be a consideration and a condition for
7 being permitted to participate in the Retiree Health Care Act.
8 Eligible dependents shall pay monthly premiums in amounts that
9 with other money appropriated to the fund shall cover the cost
10 of the basic plan for the eligible dependents.

11 B. An eligible retiree, retired pursuant to the
12 Public Employees Retirement Act under a state legislator member
13 coverage plan, shall pay monthly premiums in amounts that cover
14 the cost of the basic plan for the retiree and the retiree's
15 eligible dependents.

16 [~~B.-~~] C. Eligible retirees and eligible dependents
17 shall pay monthly premiums to cover the cost of the optional
18 plans that they elect to receive, and the board shall adopt
19 rules for the collection of additional premiums from eligible
20 retirees and eligible dependents participating in the optional
21 plans. An eligible retiree or eligible dependent may authorize
22 the authority in writing to deduct the amount of these premiums
23 from the monthly annuity payments, if applicable.

24 [~~C.-~~] D. The participating employers, active
25 employees and retirees are responsible for the financial

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1 viability of the program. The overall financial viability is
2 not an additional financial obligation of the state.

3 ~~[D-]~~ E. For eligible retirees who become eligible
4 for participation on or after July 1, 2001, the board may
5 determine monthly premiums based on the retirees' years of
6 credited service with participating employers. "

7 Section 6. APPROPRIATION. --One hundred thousand dollars
8 (\$100,000) is appropriated from the general fund to the
9 legislative council service for expenditure in fiscal year 2004
10 for the purpose of paying the state contributions for the cost
11 of insurance for legislators. Any unexpended or unencumbered
12 balance remaining at the end of fiscal year 2004 shall revert
13 to the general fund.

14 Section 7. EFFECTIVE DATE. --The effective date of the
15 provisions of this act is July 1, 2003.